



Proposed Regulation Agency Background Document

Agency name	DEPT OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation	112 VAC 30-141
Regulation title	Family Access to Medical Insurance Security Plan: FAMIS Select (12 VAC 30-141-10 to 12 VAC 30-141-175)
Action title	FAMIS Select
Document preparation date	

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

This action revamps the Employer Sponsored Health Insurance (ESHI) component of the Family Access to Medical Insurance Security (FAMIS) Program. The name of this program within FAMIS is changed to FAMIS Select; the segment of the FAMIS program is being reworked to make it more accessible and easier for FAMIS enrollees and their employers.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The *Code of Virginia* (1950) as amended, § 32.1-351, grants to the BMAS the authority to administer and amend the Title XXI Plan (FAMIS). The *Code of Virginia* (1950) as amended, § 32.1-351(K), authorizes the Director of DMAS to “adopt, promulgate and enforce such

regulations pursuant to the Administrative Process Act (§ 2.2-400 et. seq.) as may be necessary for the implementation and administration of the Family Access to Medical Insurance Security Plan.” The 2005 Appropriations Act, Chapter 951 Item 324 L and Chapter 584 [32.1-351(D), 31.2-351(2) and (3)] mandated that DMAS promulgate regulations to simplify administration of the premium assistance program available under FAMIS and to eliminate the provision that coverage for all benefits not included in the employer’s plan be provided for through supplemental insurance coverage.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The purpose of this action is to implement a new health insurance premium assistance component for the Family Access to Medical Insurance Security (FAMIS) program to replace the current program, known as Employee Sponsored Health Insurance (ESHI). The goal of this new program is to both improve and simplify the operation and administration of the health insurance premium assistance component of FAMIS while maintaining the cost-effectiveness of the FAMIS program.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the “Detail of changes” section.)

The section of the non-State Plan regulations that is affected by this change is: Family Access to Medical Insurance Security Plan (12 VAC 30-141). This proposed action affects 12 VAC 30-141-10 (Definitions), in which DMAS deletes the definitions for ESHI and adds definitions for “FAMIS Select” and “Private or employer sponsored health insurance coverage, as well as removing all references to ESHI. In two sections, 12 VAC 30-141-40 (Review of adverse actions) and 30-141-100 (Eligibility requirements), all references to ESHI are changed to FAMIS Select references. In 12 VAC 30-141-160 (Co-payments for families not participating in FAMIS Select) DMAS is removing the prohibition on co-payments for ESHI enrollees. 12 VAC 30-141-170 [Employer sponsored health insurance (ESHI)] is being deleted. 12 VAC 30-141-175 (FAMIS Select) is a new section being added to described the program, and finally, the statement, “The Medicaid look-alike plan is also used as a benchmark for the ESHI of FAMIS” is being deleted from 12 VAC 30-141-200 (Benefit packages).

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The primary advantage to the Commonwealth of this action is that the changes from ESHI to FAMIS Select will make it easier for FAMIS enrollees and potential enrollees to take advantage of this program. Each time a FAMIS enrollee is placed in FAMIS Select, the Commonwealth saves money on health care services costs, because rather than pay for medical services; FAMIS Select permits DMAS to pay for only the health insurance premiums of the enrollee. This is a very cost-effective use of state dollars. In addition, the enhanced availability of employer health insurance provides a more attractive alternative for the working families who cannot afford insurance through their employer. There are no disadvantages to the Commonwealth or the public concerning this action.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	This regulation is projected to be budget neutral.
Projected cost of the regulation on localities	None
Description of the individuals, businesses or other entities likely to be affected by the regulation	These regulations will affect families with children eligible for FAMIS and some businesses who offer employer-sponsored health insurance plans.
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	It is assumed that the changes in the regulations will increase enrollment in FAMIS <i>Select</i> to 100 in FFY 2005, 400 in FFY 2006, 800 in FFY 2007. The number of small businesses affected by the program is unknown. In general, small businesses are less likely to offer health insurance and therefore less likely to have employees who participate in FAMIS Select.
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	The costs to families will depend on the requirements of the health insurance plan offered by their employer. FAMIS <i>Select</i> may also help families afford full family coverage through their employer and therefore cover medical costs for other uninsured members of the family. Businesses may experience a small increase in the number of employees participating in employer-sponsored health plans and may experience an increase in employee retention.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Simplification of the premium assistance program available under FAMIS and elimination of the provision that all benefits not included in the employer's plan be provided through supplemental coverage, as contained herein, was mandated by the General Assembly through the 2005 Appropriations Act, Chapter 951 Item 324 L and Chapter 584 (32.1-351(D), 31.2-351(2) and (3)], thereby eliminating consideration of alternatives. The regulatory changes proposed herein conform the agency's current policies to changes required by the Act.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

No comments were received during the NOIRA public comment period.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

This regulatory action does not have any impact on the institution of the family and family stability including strengthening or eroding the authority and rights of parents in the education, nurturing, and supervision of their children; encouraging or discouraging economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents, strengthening or eroding the marital commitment; nor increasing or decreasing disposable family income.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

There was one substantive change between the Emergency Regulation and the Proposed Regulation, found in 12 VAC 30-141-100(G)(2)(b), highlighted in bold below.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
12VAC30-141-10		Definition of: Adverse Action; Employer-Sponsored Health Insurance (ESHI); Family; Fixed premium assistance amount; Premium assistance; Private or employer sponsored health insurance coverage; and Supplemental coverage.	Definitions of "Adverse action" and "Family" are amended to change the name of the premium assistance program from ESHI to FAMIS Select. Strike the definition of "Employer-Sponsored Health Insurance." Insert definitions of "FAMIS Select," "Fixed premium assistance amount", and "Private or employer sponsored health insurance coverage." Amend the definition of "Supplemental coverage" to eliminate all FAMIS benefits except coverage of childhood immunizations.
12VAC30-141-40		Review of adverse action, includes ESHI reference	Changes reference from "ESHI" to "FAMIS Select."
12VAC30-141-100		Eligibility requirements, includes ESHI reference	Changes reference from "ESHI" to "FAMIS Select." Adds "insurance company" to the requirement that adverse actions related to health benefits provided through the FAMIS Select program will be resolved between the family and the employer's health plan or the insurance company. This clarifies the regulation where the child is covered by a private policy instead of through an employer-sponsored health plan. The word "Medicare" was added to the list of types of medical coverage not included in the definition of health insurance in (G)(2)(b). This change was based upon a policy change at the federal level.
12VAC30-141-160 C 1		Co-payments for families not participating in employer-sponsored health insurance	Eliminates the requirement that co-payments not be required for families participating in ESHI.
12VAC30-141-170		Employer-sponsored health insurance (ESHI)	Eliminates this section and replaces it with 12VAC30-141-175
	12VAC30-141-175 12VAC30-141-175		Creates new section defining the FAMIS Select program. Changes from the ESHI program include: <ul style="list-style-type: none"> • The ability to provide premium assistance for private insurance plans not provided through an employer; • Allow for payment of all of a family's premium if certain conditions are met; • Eliminate requirements that the employer's plan provide comprehensive coverage, that the employer contribute to the cost of the

			<p>coverage, and the family receive the full employer contribution;</p> <ul style="list-style-type: none"> • Clarify that the policyholder, not the applicant, assign rights to DMAS for third party payment for childhood immunizations only and the private or employer plan is the only payer for all other services; • Add an eligibility requirement that the policyholder not be under a court order to provide medical support for the applicant child; • Eliminate the requirement that the family enroll in the most cost-effective plan; • Require DMAS to provide additional information to families including a guide for making an informed choice between FAMIS and FAMIS Select; • Redefine cost-effectiveness as determined by use of a fixed premium assistance amount instead of by calculation of individual premium assistance amounts per child; • Require DMAS to determine a cost-effective fixed premium assistance amount annually that is less than or equal to the average cost per member/per month of FAMIS plus administrative costs; • Require that a family's total premium assistance amount cannot exceed the total cost of the family's monthly premium payment for the private or employer-sponsored health plan; • Provide for the immediate transfer of a child from FAMIS Select into FAMIS contingent on the termination of coverage under the private or employer plan and repayment of any required premium assistance amount; • Reduce supplemental coverage provided to children enrolled in FAMIS Select from all FAMIS benefits to only coverage for childhood immunizations; and • Eliminate provision that DMAS pay for all co-payments charged by the employer's plan for the FAMIS eligible child and instead require that families pay all costs associated with coverage under the private or employer's plan.
12VAC30-141-200		Benefit packages	Delete requirement that the Medicaid look-alike plan is used as a benchmark plan for ESHI